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7  
8 **BEFORE THE**  
**STATE BOARD OF OPTOMETRY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No.

11 **DAVID J. BUTCHERT**  
12 **4074 Hardwick Street**  
13 **Lakewood, CA 90712**

**A C C U S A T I O N**

14 **Optometrist License No. 10190**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as  
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about September 16, 1993, the State Board of Optometry (Board) issued  
22 Optometrist License Number 10190 to David J. Butchert (Respondent). The Optometrist License  
23 was in full force and effect at all times relevant to the charges brought herein and will expire on  
24 June 30, 2015, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code ("Code") unless otherwise  
28 indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 3090 of the Code states:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board."

## STATUTORY PROVISIONS

6. Section 652 of the Code states, in pertinent part:

"Violation of this article [Article 6, commencing with Section 650 of the Code] in the case of a licensed person constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed, or if a license has been issued in connection with a place of business, then for the suspension or revocation of the place of business in connection with which the violation occurs. The proceedings for suspension or revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and each board shall have all the powers granted therein."

7. Section 655 of the Code states, in pertinent part:

“(a) No person licensed under Chapter 7 (commencing with Section 3000) of this division [optometrist] may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with any person licensed under Chapter 5.5 (commencing with Section 2550) of this division [registered dispensing optician (“RDO”)].”

1           8.     Section 3006 of the Code states:

2           "As used in this chapter, the term 'advertise' and any of its variants include the use of a  
3 newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill,  
4 poster, bill, sign, placard, card, label, tag, window display, store sign, radio announcement, or any  
5 other means or methods now or hereafter employed to bring to the attention of the public the  
6 practice of optometry or the prescribing, fitting, or sale, in connection therewith, of lenses,  
7 frames, or other accessories or appurtenances."

8           9.     Section 3040 of the Code states:

9           "It is unlawful for a person to engage in the practice of optometry or to display a sign or in  
10 any other way to advertise or hold himself or herself out as an optometrist without having first  
11 obtained a certificate of registration from the board under the provisions of this chapter or under  
12 the provisions of any former act relating to the practice of optometry. The practice of optometry  
13 includes the performing or controlling of any acts set forth in Section 3041. In any prosecution  
14 for a violation of this section, the use of test cards, test lenses, or of trial frames is prima facie  
15 evidence of the practice of optometry."

16          10.    Section 3041 of the Code states in pertinent part:

17          "(a) The practice of optometry includes the prevention and diagnosis of disorders and  
18 dysfunctions of the visual system, and the treatment and management of certain disorders and  
19 dysfunctions of the visual system, as well as the provision of rehabilitative optometric services,  
20 and is the doing of any or all of the following:

21                "(1) The examination of the human eye or eyes, or its or their appendages, and the  
22 analysis of the human vision system, either subjectively or objectively.

23                "(2) The determination of the powers or range of human vision and the accommodative  
24 and refractive states of the human eye or eyes, including the scope of its or their functions and  
25 general condition.

26                "(3) The prescribing or directing the use of, or using, any optical device in connection  
27 with ocular exercises, visual training, vision training, or orthoptics.

28          ///

1 “(4) The prescribing of contact and spectacle lenses for, or the fitting or adaptation of  
2 contact and spectacle lenses to, the human eye, including lenses that may be classified as drugs or  
3 devices by any law of the United States or of this state.

4 “....”

5 11. Section 3070 of the Code states in pertinent part:

6 “(a) Before engaging in the practice of optometry, each licensed optometrist shall notify the  
7 board in writing of the address or addresses where he or she is to engage in the practice of  
8 optometry and, also, of any changes in his or her place of practice. After providing the address or  
9 addresses and place of practice information to the board, a licensed optometrist shall obtain a  
10 statement of licensure from the board to be placed in all practice locations other than an  
11 optometrist's principal place of practice. Any licensed optometrist who holds a branch office  
12 license is not required to obtain a statement of licensure to practice at that branch office. The  
13 practice of optometry is the performing or the controlling of any of the acts set forth in Section  
14 3041.

15 “...”

16 12. Section 3077 of the Code states in pertinent part:

17 “As used in this section ‘office’ means any office or other place for the practice of  
18 optometry.

19 “...”

20 “(c) On and after October 1, 1959, no optometrist, and no two or more optometrists jointly,  
21 may have more than one office unless he or she or they comply with the provisions of this chapter  
22 as to an additional office. The additional office, for the purposes of this chapter, constitutes a  
23 branch office.

24 “...”

25 “(e) On and after January 1, 1957, any optometrist, or any two or more optometrists,  
26 jointly, who desire to open a branch office shall notify the board in writing in a manner prescribed  
27 by the board.

1       “(f) On and after January 1, 1957, no branch office may be opened or operated without a  
2 branch office license. Branch office licenses shall be valid for the calendar year in or for which  
3 they are issued and shall be renewable on January 1st of each year thereafter. Branch office  
4 licenses shall be issued or renewed only upon the payment of the fee therefor prescribed by this  
5 chapter.”

6       13. Section 3078 of the Code states:

7       “(a) It is unlawful to practice optometry under a false or assumed name, or to use a false or  
8 assumed name in connection with the practice of optometry, or to make use of any false or  
9 assumed name in connection with the name of a person licensed pursuant to this chapter.  
10 However, the board may issue written permits authorizing an individual optometrist or an  
11 optometric group or optometric corporation to use a name specified in the permit in connection  
12 with its practice if, and only if, the board finds to its satisfaction all of the following:

13       “(1) The place or establishment, or the portion thereof, in which the applicant or applicants  
14 practice, is owned or leased by the applicant or applicants, and the practice conducted at that  
15 place or establishment, or portion thereof, is wholly owned and entirely controlled by the  
16 applicant or applicants. However, if the applicant or applicants are practicing optometry in a  
17 community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code,  
18 this subdivision shall not apply.

19       “(2) The name under which the applicant or applicants propose to operate is in the  
20 judgment of the board not deceptive or inimical to enabling a rational choice for the consumer  
21 public and contains at least one of the following designations: "optometry" or "optometric."  
22 However, if the applicant or applicants are practicing optometry in a community clinic, as defined  
23 in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply.  
24 In no case shall the name under which the applicant or applicants propose to operate contain the  
25 name or names of any of the optometrists practicing in the community clinic.

26       “(3) The names of all optometrists practicing at the location designated in the application  
27 are displayed in a conspicuous place for the public to see, not only at the location, but also in any  
28 advertising permitted by law.

1       “(4) No charges that could result in revocation or suspension of an optometrist’s license to  
2 practice optometry are pending against any optometrist practicing at the location.

3       “(b) Permits issued under this section by the board shall expire and become invalid unless  
4 renewed at the times and in the manner provided in Article 7 (commencing with Section 3145)  
5 for the renewal of licenses issued under this chapter.

6       “(c) A permit issued under this section may be revoked or suspended at any time that the  
7 board finds that any one of the requirements for original issuance of a permit, other than under  
8 paragraph (4) of subdivision (a), is no longer being fulfilled by the individual optometrist,  
9 optometric corporation, or optometric group to whom the permit was issued. Proceedings for  
10 revocation or suspension shall be governed by the Administrative Procedure Act.

11       “(d) If the board revokes or suspends the license to practice optometry of an individual  
12 optometrist or any member of a corporation or group to whom a permit has been issued under this  
13 section, the revocation or suspension shall also constitute revocation or suspension, as the case  
14 may be, of the permit.”

15       14. Section 3101 of the Code states:

16       “It is unlawful to advertise by displaying a sign or otherwise or hold himself or herself out  
17 to be an optometrist without having at the time of so doing a valid unrevoked license from the  
18 board.”

19       15. Section 3109 of the Code states:

20       "Directly or indirectly accepting employment to practice optometry from any person not  
21 having a valid, unrevoked license as an optometrist or from any company or corporation  
22 constitutes unprofessional conduct. Except as provided in this chapter, no optometrist may, singly  
23 or jointly with others, be incorporated or become incorporated when the purpose or a purpose of  
24 the corporation is to practice optometry or to conduct the practice of optometry.

25       "The terms ‘accepting employment to practice optometry’ as used in this section shall not be  
26 construed so as to prevent a licensed optometrist from practicing optometry upon an individual  
27 patient.

1 "Notwithstanding the provisions of this section or the provisions of any other law, a  
2 licensed optometrist may be employed to practice optometry by a physician and surgeon who  
3 holds a certificate under this division and who practices in the specialty of ophthalmology or by a  
4 health care service plan pursuant to the provisions of Chapter 2.2 (commencing with Section  
5 1340) of Division 2 of the Health and Safety Code."

6 16. Section 3110 of the Code states:

7 "The board may take action against any licensee who is charged with unprofessional  
8 conduct, and may deny an application for a license if the applicant has committed unprofessional  
9 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
10 limited to, the following:

11 "(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the  
12 violation of, or conspiring to violate any provision of this chapter or any of the rules and  
13 regulations adopted by the board pursuant to this chapter.

14 "..."

#### 15 REGULATORY PROVISIONS

16 17. California Code of Regulations, title 16 ("CCR"), section 1505 states:

17 "(a) The notification of intention to engage in the practice of optometry which is required  
18 by Section 3070 of the code shall be addressed to the Board at its office in Sacramento.

19 "(b) Such notification of intention to engage in the practice of optometry includes notifying  
20 the Board of intention to accept employment to practice optometry, the name or names of the  
21 optometrist or optometrists, or those who by law may employ an optometrist and the address or  
22 addresses of the office or offices at which the licensee will be employed.

23 "(c) Such notification of intention to engage in the practice of optometry includes notifying  
24 the Board prior to the establishment of any office or offices to practice optometry of the intention  
25 to establish such office or offices and the location or locations to be occupied."

26 18. CCR section 1513 states:

27 "All signs, cards, stationery or other advertising must clearly and prominently identify the  
28 individual optometrist or optometrists."

1 19. CCR section 1514 states:

2 "Where an optometrist rents or leases space from and practices optometry on the premises  
3 of a commercial (mercantile) concern, all of the following conditions shall be met:

4 "(a) The practice shall be owned by the optometrist and in every phase be under his/her  
5 exclusive control. The patient records shall be the sole property of the optometrist and free from  
6 any involvement with a person unlicensed to practice optometry. The optometrist shall make  
7 every effort to provide for emergency referrals.

8 "(b) The rented space shall be definite and apart from space occupied by other occupants of  
9 the premises.

10 "(c) All signs, advertising, and display shall likewise be separate and distinct from that of  
11 the other occupants and have the optometrist's name and the word "optometrist" prominently  
12 displayed in connection therewith.

13 "(d) There shall be no legends as "Optical Department," "Optometrical Department,"  
14 "Optical Shoppe," or others of similar import, displayed on any part of the premises or in any  
15 advertising.

16 "(e) There shall be no linking of the optometrist's name, or practice, in advertising or in any  
17 other manner with that of the commercial (mercantile) concern from whom he/she is leasing  
18 space."

19 **COST RECOVERY**

20 20. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
21 administrative law judge to direct a licentiate found to have committed a violation or violations of  
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
23 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
24 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
25 included in a stipulated settlement.

26 **FACTS**

27 21. At the times mentioned herein, Respondent had reported his places of practice to the  
28 Board at the following locations: 4074 Hardwick Street, Lakewood, CA 90712; 17 Lakewood



1 Mall, Lakewood, CA 90712; 5685 Woodruff Avenue, Lakewood, CA 90713; and 12300 Seal  
2 Beach Boulevard, Seal Beach, CA 90740. However, Respondent did not report to the Board his  
3 practice location at 8920 W. Pico Boulevard, Los Angeles, CA 90035.

4 22. On or about October 24, 2012, Board investigators conducted an undercover  
5 investigation of Respondent practicing optometry at Optics by Arne located at 8920 W. Pico  
6 Boulevard, Los Angeles, CA 90035. At all times mentioned herein, Optics by Arne was licensed  
7 as a registered dispensing optician (RDO) by the Medical Board of California. Several signs  
8 appeared on all sides of the building offering eyeglass and contact lens examinations. These  
9 signs read: "Independent Doctor of Optometry Enter Thru Suite #B (Rear)," "Eye Glass Exam  
10 \$34.99," "CT Lens Exam \$79.00" and "Optometry Enter in Rear Suite B." No optometrist's  
11 name appeared on any of the signage on the building.

12 23. Pursuant to the signage, the Board investigators attempted to enter through the rear  
13 entrance, but the door was locked. The investigators entered through the front entrance of Optics  
14 by Arne, an optical store which was open for business, and was greeted by Lee C., who worked  
15 for Optics by Arne. One of the investigators (M.C.) asked if an appointment was needed to see  
16 the optometrist. Lee C. took out an appointment book and offered to make the appointment for  
17 Investigator M.C. and informed the investigators that the optometrist only worked there on  
18 Mondays and Thursdays. When Investigator M.C. indicated he would call back for an  
19 appointment, Lee C. gave him a business card which read:

20 "Mon and Thurs Only  
21 No Appt Necessary  
22 1 - 5:30 Mon  
23 10 - 5:30 Thurs

24 **Optometrist**  
25 ***Eyeglass Exam \$34.99***  
26 **Contact Lens Exam Staring [sic] at \$79.00**  
27 ***All Exams Cash Only***

28 8920 W. Pico Blvd., Suite B  
Los Angeles, CA 90035

**(310) 276-4290"**

26 Lee C. took out a pen and underlined the words "\$34.99" and "All Exams Cash Only" and  
27 identified Respondent by name as the optometrist. When Investigator M.C. asked Lee C. about  
28

1 what the exam would entail, Lee C. explained that M.C. did not need to have the portion of the  
2 eye exam which employs a puff of air into the eyes and that the exam was just a basic eye exam.

3 24. On or about October 25, 2012, Investigator M.C. dialed the number on the  
4 optometrist business card (310-276-4290) and left a message. Respondent returned his call on  
5 October 26, 2012. During the telephone call, Respondent provided Investigator M.C. the  
6 following information:

7 a. He was paid as an independent contractor to provide optometry services inside  
8 Optics by Arne;

9 b. He was the only optometrist working at Optics by Arne and he was unaware  
10 that any signs or stationery were required to display his name;

11 c. He did not have an account with Department of Water and Power at the Optics  
12 by Arne location;

13 d. He did not have an account for the phone number listed on the optometrist  
14 business card (310-276-4290) and he did not pay the phone bill at the Optics by Arne location;

15 e. He did not have a lease agreement nor did he pay rent for the space inside  
16 Optics by Arne where he provided optometry services; and

17 f. He did not have a branch license to perform optometry services at Optics by  
18 Arne.

19 25. On or about December 13, 2012, Investigator M.C. conducted an in-person interview  
20 with Respondent in the presence of his attorney. Respondent relayed the following pertinent  
21 facts:

22 a. He had provided optometry services at Optics by Arne for three to four years;

23 b. He received a telephone call from Arne C. one day out of the blue asking if  
24 Respondent was looking for extra work. Arne C. explained his optical store had a space in the  
25 back and asked Respondent if he wanted to work there one day a week;

26 c. The optometrist office inside Optics by Arne was already set up for eye exams  
27 with an optometrist's chair, a stand, a microscope, a phoropter, and a tonometer. All of these  
28 pieces of equipment were owned by Arne C.;

d. Respondent did not sign a lease or pay rent to anyone for the back office space inside Optics by Arne;

e. All signage related to optometry services on the outside of the building was already present and was provided by Optics by Arne; Respondent had no control over the signage;

f. Arne C. provided Respondent with the optometrist business cards for use and distribution;

g. Arne C. owned and operated both of the telephone lines for the optics business and for the optometrist business; Respondent did not answer the telephone line for the optometrist business; the line was answered by the receptionist who worked for Optics by Arne;

h. The receptionist for the optometrist business was not hired or paid by Respondent; that role was usually performed by Lee C. or the wife of Arne C., Wendy C.;

i. When a patient came in to receive optometry services from Respondent, the patient would see Wendy C. first, who would have the patient complete a patient information form and ask if the patient was there for an eyeglass or contact lens exam. Then Wendy C. would quote the price for the exam, and advise the patient that the payment was to be cash only. Wendy C. would perform a pretest on the patient using an auto refractor, and then turn the patient over to Respondent. After Respondent performed a complete eye exam on the patient, he would turn the patient back to Wendy C. with the prescription;

j. Although there was a sign which read: "Independent Doctor of Optometry, Enter through Suite B in Rear," it was Arne C.'s practice to keep the rear door locked so that all potential optometry patients would have to enter through the front door of the optics business;

k. After Respondent terminated his practice at Optics by Arne, Arne C. refused to turn over the patient records to him.

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Prohibited Business Arrangement with RDO)**

26. Respondent is subject to disciplinary action under Code section 655, subdivision (a), on the grounds of unprofessional conduct. The circumstances are set forth in paragraphs 21-25,

1 above, which are incorporated herein by reference, and as follows. From about 2008 to 2012  
2 Respondent had a prohibited membership, proprietary interest, coownership, landlord-tenant  
3 relationship, or profit-sharing arrangement in any form, directly or indirectly, with Optics by  
4 Arne, an RDO, registered with the Medical Board of California pursuant to chapter 5.5 of  
5 division 2 of the Code. Respondent received free rent, free optometric equipment, a free  
6 telephone line, free utilities, free advertising, and free services of Optics by Arne staff members  
7 to answer his phone, make appointments for him, perform pre-examination testing for him, and  
8 allowed his optometry practice to be controlled by Optics by Arne.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Assisting in and Abetting Violations of Optometry Act)**

11 27. Respondent is subject to disciplinary action under Code section 3110, subdivision (a),  
12 on the grounds of unprofessional conduct, in that Respondent directly or indirectly assisted or  
13 abetted Optics by Arne, an RDO, in the violation of the Optometry Practice Act and the Board's  
14 rules and regulations. The circumstances are set forth in paragraphs 21-25, above, which are  
15 incorporated herein by reference and as follows:

16 a. Optics by Arne practiced optometry without a license in violation of Code  
17 section 3040, by controlling Respondent's practice of optometry and its various components, per  
18 Code sections 3041 and 3078, including providing Respondent's working space within the  
19 RDO's premises; all of the optometric equipment for Respondent's use; staff to set appointments,  
20 quote fees, and perform optometric pre-testing; telephone lines and answering services; and  
21 advertising his optometric services, which Respondent aided and abetted by providing eye exams  
22 for Optics by Arne within its RDO premises.

23 b. Optics by Arne advertised the practice of optometry without having a valid  
24 license from the Board in violation of Code section 3101 by advertising on the building where it  
25 was located, "Independent Doctor of Optometry Enter Thru Suite #B (Rear)," "Eye Glass Exam  
26 \$34.99," "CT Lens Exam \$79.00" and "Optometry Enter in Rear Suite B," and distributing  
27 business cards offering the services of an optometrist, which Respondent aided and abetted by  
28 providing eye exams for Optics by Arne and within its RDO premises.

1 c. Optics by Arne advertised the practice of optometry in violation of CCR section  
2 1513 by advertising on the outside of its business location and on business cards the practice of  
3 optometry without prominently identifying the individual optometrist, which Respondent aided  
4 and abetted by providing eye exams for Optics by Arne within its RDO premises.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Failure to Have Control Over Optometry Practice)**

7 28. Respondent is subject to disciplinary action under Code section 3110, subdivision (a)  
8 on the grounds of unprofessional conduct for violating CCR section 1514, as set forth in  
9 paragraphs 21-25, above, which are incorporated by reference. The circumstances are that  
10 Respondent failed to own the optometry practice located inside Optics by Arne, failed to have  
11 exclusive control over his practice, failed to control the patient records, failed to rent a space that  
12 is definite and apart from Optics by Arne, failed to have control over signs and advertising which  
13 are definite and apart from Optics by Arne, failed to have his name prominently displayed in  
14 connection with his practice, and failed to separate his practice in advertising or in any other  
15 manner from Optics by Arne.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Accepted Employment to Practice from Unlicensed Person)**

18 29. Respondent is subject to disciplinary action under Code section 3110, subdivision (a)  
19 on the grounds of unprofessional conduct for violating Code section 3109, as set forth in  
20 paragraphs 21-25, above, which are incorporated herein by reference. The circumstances are that  
21 Respondent directly or indirectly accepted employment to practice optometry from an RDO, who  
22 was not a licensed optometrist.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Failure to Notify Board of Practice Location)**

25 30. Respondent is subject to disciplinary action under Code section 3110, subdivision (a)  
26 on the grounds of unprofessional conduct for violating Code section 3070, subdivision (a) and  
27 CCR section 1505, as set forth in paragraphs 21-25, above, which are incorporated by reference.  
28 The circumstances are that from about 2008 to 2012, Respondent failed to notify the Board in

1 writing of his practice location at 8920 W. Pico Boulevard, Los Angeles, CA 90035 and failed to  
2 obtain a statement of licensure from the Board to be placed at that practice location prior to  
3 engaging in the practice of optometry there, which was not his principle place of practice,.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Failure to Obtain a Branch Office License)**

6 31. Respondent is subject to disciplinary action under Code section 3110, subdivision (a)  
7 on the grounds of unprofessional conduct for violating Code section 3077, as set forth in  
8 paragraphs 21-25, above, which are incorporated by reference. The circumstances are that from  
9 about 2008 to 2012, Respondent failed to notify the Board in writing of his branch office practice  
10 location at 8920 W. Pico Boulevard, Los Angeles, CA 90035 and failed to obtain a branch office  
11 license, prior to engaging in the practice of optometry at that location.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Practicing Optometry under a False or Assumed Name)**

14 32. Respondent is subject to disciplinary action under Code section 3110, subdivision (a)  
15 on the grounds of unprofessional conduct for violating Code section 3078, as set forth in  
16 paragraphs 21-25, above, which are incorporated by reference. The circumstances are that  
17 Respondent practiced optometry and used the false or assumed name, "Optics by Arne." In  
18 addition, Respondent did not own or lease the premises upon which he practiced inside the Optics  
19 by Arne RDO store and did not wholly own and entirely control his optometry practice.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Advertising without using Individual Name)**

22 33. Respondent is subject to disciplinary action under Code section 3110, subdivision (a)  
23 on the grounds of unprofessional conduct for violating CCR section 1513, as set forth in  
24 paragraphs 21-25, above, which are incorporated by reference. The circumstances are that  
25 Respondent advertised his optometric practice on the outside of the Optics by Arne location  
26 without providing his individual name, and used and distributed business cards, which did not  
27 have Respondent's name clearly and prominently identified as an individual optometrist.


28 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the State Board of Optometry issue a decision:

1. Revoking or suspending Optometrist License Number 10190, issued to David J. Butchert;
2. Ordering David J. Butchert to pay the State Board of Optometry the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: August 29, 2013

  
MONA MAGGIO  
Executive Officer  
State Board of Optometry  
Department of Consumer Affairs  
State of California  
Complainant

LA2013509184